

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Application of)

Fant Broadcast Development, L.L.C.)

File No. BPCT-19960722KG

For Construction Permit for a New)
NTSC Television Station on Channel 47)
at Columbia, South Carolina)
(Facility ID No. 82786))

Report No. AUC-01-82-A)
(Auction No. 82))

In the Matter of)

Amendment of Section 73.622(b) of)
the Commission's Rules,)
DTV Table of Allotments)
(Charleston, South Carolina))

MM Docket No. 01-128 /
RM-10133

**RESPONSE TO PETITION FOR PARTIAL RECISSION
OR CLARIFICATION OF AUCTION PUBLIC NOTICE AND FOR
EXPEDITED PROCESSING OF RULE MAKING PETITION**

Fant Broadcast Development, L.L.C. ("Fant"), by its attorneys, hereby submits this Response to the Petition for Partial Recission or Clarification of Auction Public Notice, and for Expedited Processing of Rule Making Petition," (the "Petition") filed by WCSC, Inc. ("WCSC"). In the Petition, WCSC asks that the Commission rescind the Auction 82 Notice to the extent it lists Fant's application for a new television station on NTSC Channel 47 at Columbia, SC (filed in 1996) and solicits mutually exclusive applications, or that the Commission give notice to Fant and all prospective applicants for Channel 47 at Columbia, SC that any construction permit or license for that channel will be conditioned on acceptance of interference from the operation of WCSC-DT on DTV Channel 47 at Charleston, SC proposed by WCSC in a petition for rulemaking filed on May 1, 2000.

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WCSC does not claim that Fant's proposed NTSC facility on Channel 47 at Columbia, SC would cause any interference to the proposed operation on DTV Channel 47 at Charleston, SC under the allotment proposal. Moreover, while WCSC claims that under its allotment proposal, the DTV station would cause interference to approximately 12.8% of Fant's proposed NTSC facility, WCSC submitted no engineering statement or other evidence to support the claim.

In fact, the Engineering Statement attached to this Response shows that the loss of service on Fant's proposed station on NTSC Channel 47 due to interference from WCSC-DT on DTV Channel 47 as proposed in WCSC's rulemaking proposal would be minimal. The population lost would be just 4.3% of the population Fant proposes to serve, who reside in a sparsely populated area in the southeastern fringe of Fant's proposed service area far away from the proposed city of license, Columbia, SC. As a result, the attached Engineering Statement shows that Fant could take its authorization subject to receiving interference from the operation on DTV Channel 47 at Charleston, SC as proposed by WCSC in its rulemaking proposal without suffering any material loss of persons served.

Consequently, Fant consents to a grant of the relief proposed in WCSC's petition, namely that any construction permit or license for NTSC Channel 47 at Columbia, SC would be conditioned on acceptance of interference from the operation of WCSC-DT on Channel 47 at Charleston, SC if WCSC's rulemaking proposal is adopted by the Commission. A grant of this relief would alleviate any concern on the part of WCSC, and while also permitting Fant or another mutually exclusive applicant to bring a needed additional local television service to Columbia and furthering the Commission's policy of fostering the development of emerging

television networks.¹ See VHF Drop-In Proceeding, 81 FCC 2d 233 (1980); Interim Policy on VHF Television Channel Assignments, 21 RR 1695 (1961), recon. denied, 21 RR 1710a (1961).

Further, the Commission has previously indicated to auction participants that the winner may not be able to operate the station at power levels proposed in its application. In the Blanco, Texas auction proceeding, the Commission issued a Public Notice reminding bidders that the winning bidder must protect qualified Class A television stations. Here, the Commission could issue a Public Notice reminding bidders that they will not be protected from interference from WCSC if its allotment proposal is adopted. The Blanco situation is analogous to this situation; the remedy is to tell bidders whether they will or will not receive protection and to proceed with the auction on that basis.

Fant's willingness to consent to the relief sought by WCSC, and a grant of that relief in light of Fant's consent, should dispose of the Petition. Although the Petition says at points that Fant's application is unacceptable for filing, the Petition provides no authority for the dismissal of Fant's application. WCSC is saying just that it should not be required to protect Fant's application, but the attached engineering shows that Fant's application does not need protection.

Moreover, Fant disagrees with the argument in the Petition (at pages 3-5) that Fant's Columbia application is not acceptable for filing and that NTSC "freeze waiver" applications remain subject to DTV allotment proposals forever. As the Petition itself admitted, by inviting the filing of competing applications, the Commission implicitly accepted Fant's Columbia application for filing.² Petition at Pg. 5. Thus, WCSC does not seriously contend that the Fant

¹Fant has indicated a willingness to consider affiliating with the WB Television Network.

²The Petition states that "(h)istorically, the placement of a television application on a public notice that solicits mutually exclusive applications signifies the acceptance of the lead

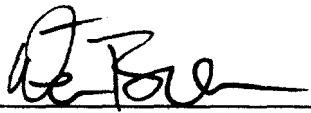
application is actually unacceptable for filing. At present, there is no Channel 47 DTV allotment at Charleston that potentially would cause interference with Fant's proposed NTSC station on Channel 47 at Columbia.

Similarly, there is no reason to delete Fant's application from the Auction 82 Public Notice. WCSC claims in the Petition (at page 5) that it was "imperative" that the Commission issue a notice of proposed rulemaking on the WCSC petition for rulemaking, but the Commission issued such a notice on June 25, 2001. See Notice of Proposed Rulemaking, MM Docket No. 01-128, released June 25, 2001. The rulemaking can proceed, and the auction can as well, provided that the Commission grant the relief consented to herein by Fant, namely that the winning Columbia applicant would receive a construction permit or license subject to receiving interference from WCSC if its rulemaking proposal is adopted.

Wherefore, Fant requests that the Commission proceed with Auction 82, but indicate that the winning Columbia applicant would receive a construction permit or license subject to receiving interference from WCSC if its rulemaking proposal is adopted.

application for filing. While the Auction 82 Notice does not explicitly accept the Fant Application for filing, it arguably does so implicitly. . . ." Petition at Pg. 5.

Respectfully submitted,

By: _____

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Attorneys for Fant Broadcast Development, L.L.C.

Dated: July 20, 2001

Exhibit E-ENG-1
Engineering Statement
Ch 47 WCSC-DT Charleston, SC
Pending Application Study for Columbia, SC
by WES, Inc. Broadcast Consultants

Although the allotment of DTV Channel 47 to Charleston, SC as proposed by WCSC-DT would be short spaced to Fant Broadcasting's proposed station NTSC Channel 47 at Columbia, SC, the attached engineering studies show that the short spacing would result in a loss of service on NTSC Channel 47 for a minimal population, and the short spacing would not be critical to the operation of Fant's proposed station.

Specifically, the attached Engineering Exhibit E-FLR-1, a Longley-Rice Study, shows that the amount of interference from WCSC-DT, under the rule making proposal, to Fant's proposed service on NTSC channel 47 would just be 4.3%. However, Exhibits E-2 and E-3 demonstrate that this interference would be limited to a sparsely populated area at the southeastern fringe of Channel 47's service area where there is little or no audience to serve.

Thus, the attached exhibits demonstrate that a grant of WCSC's rulemaking proposal for DTV Channel 47 at Charleston, SC would not cause overwhelming interference to the population who would otherwise receive service from Fant's proposed station on NTSC Channel 47 at Columbia, SC. Fant could take its authorization subject to receiving interference from the operation on DTV Channel 47 at Charleston, SC without suffering any material loss of persons served as opposed to mistakenly lowering their power and receiving more interference rather than less.

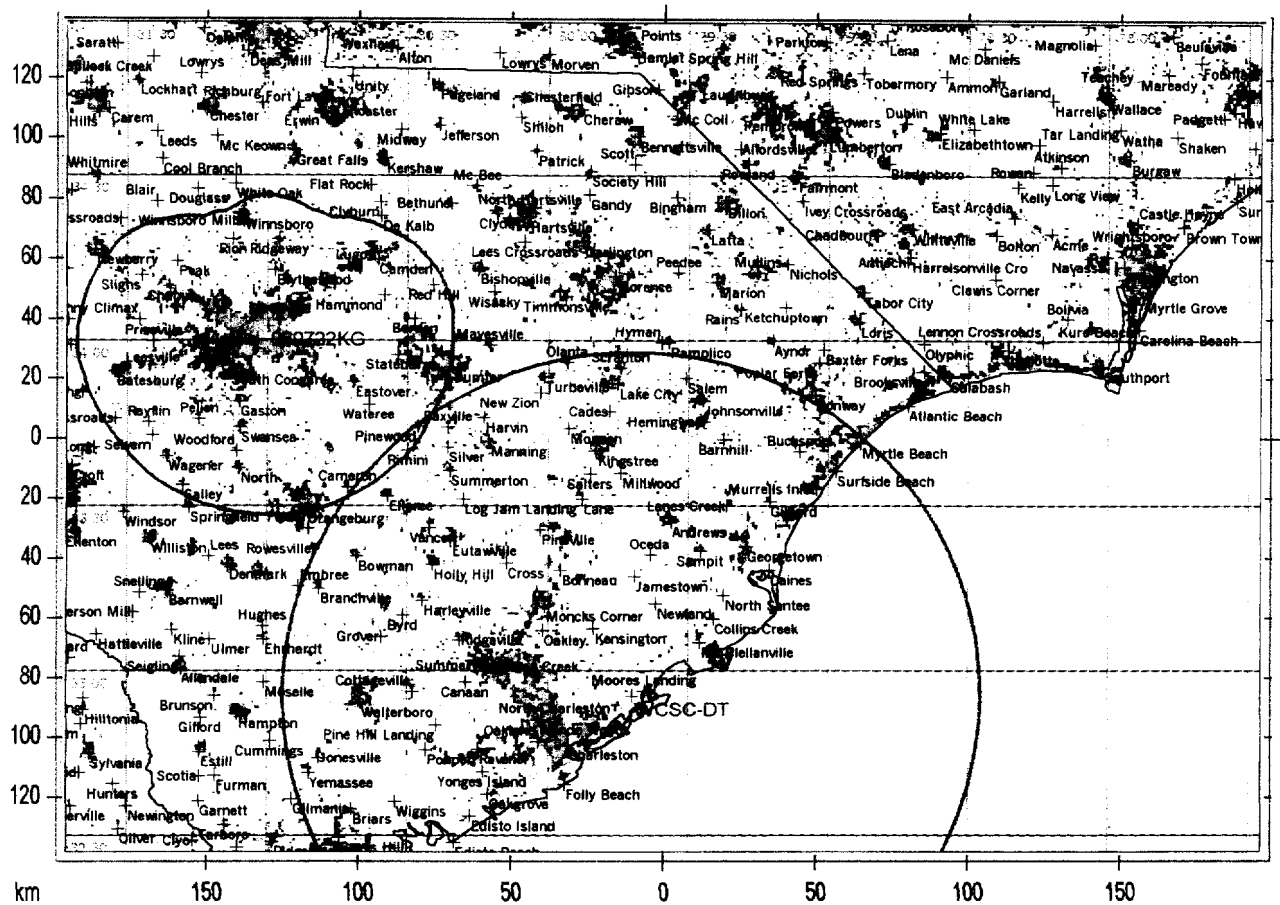
Engineering Exhibit E-FLR-1
Ch 47 WCSC-DT Charleston, SC
Pending Application Study For Columbia, SC
prepared by Wes, Inc. Broadcast Consultants

WCSC-DT N LAT 32-55-28 W LON 79-41-58 ERP:1000 kW AGL:522 m GMSL: 3 m RCMSL:525 m

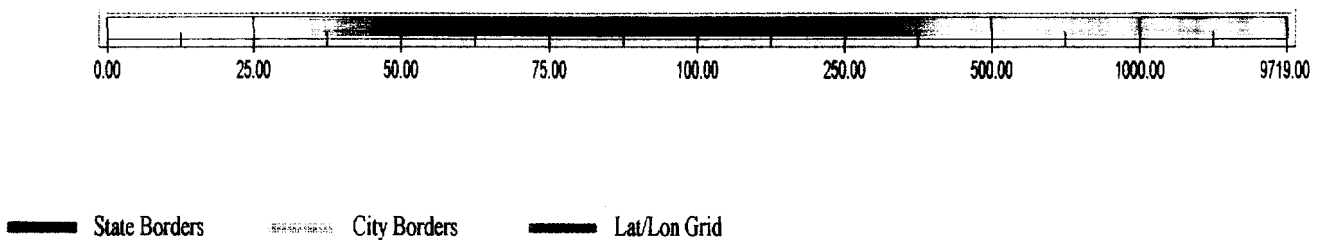
Call	Ch	Class	Status	ERP	Sep	Type	Status	Dist	Prot	Clearance	D/U	Rx	Gain	Rx	F/B	Zone	Band	Ch#	Adj	Matrix	Svc	Contour	Svc	Strength	Int	Contour	Int	Strength
960722	KG	COLUMBIA	Analog	APP	1500	D/M	Interf	173	245	-71.8	34	0	6	2	UHF	47	Z	Co	LR	F(50,50)		64	-		-			

Population before the addition of WCSC-DT to the database not affected by terrain losses:	627,927 persons
Population lost to NTSC before the addition of WCSC-DT:	100,607 persons
Population after the loss to NTSC	527,320 persons
Population after the addition of WCSC-DT to the database	500,550 persons
Population lost to NTSC with WCSC-DT:	26,770 persons
Percentage of population lost with WCSC-DT	4.3 %

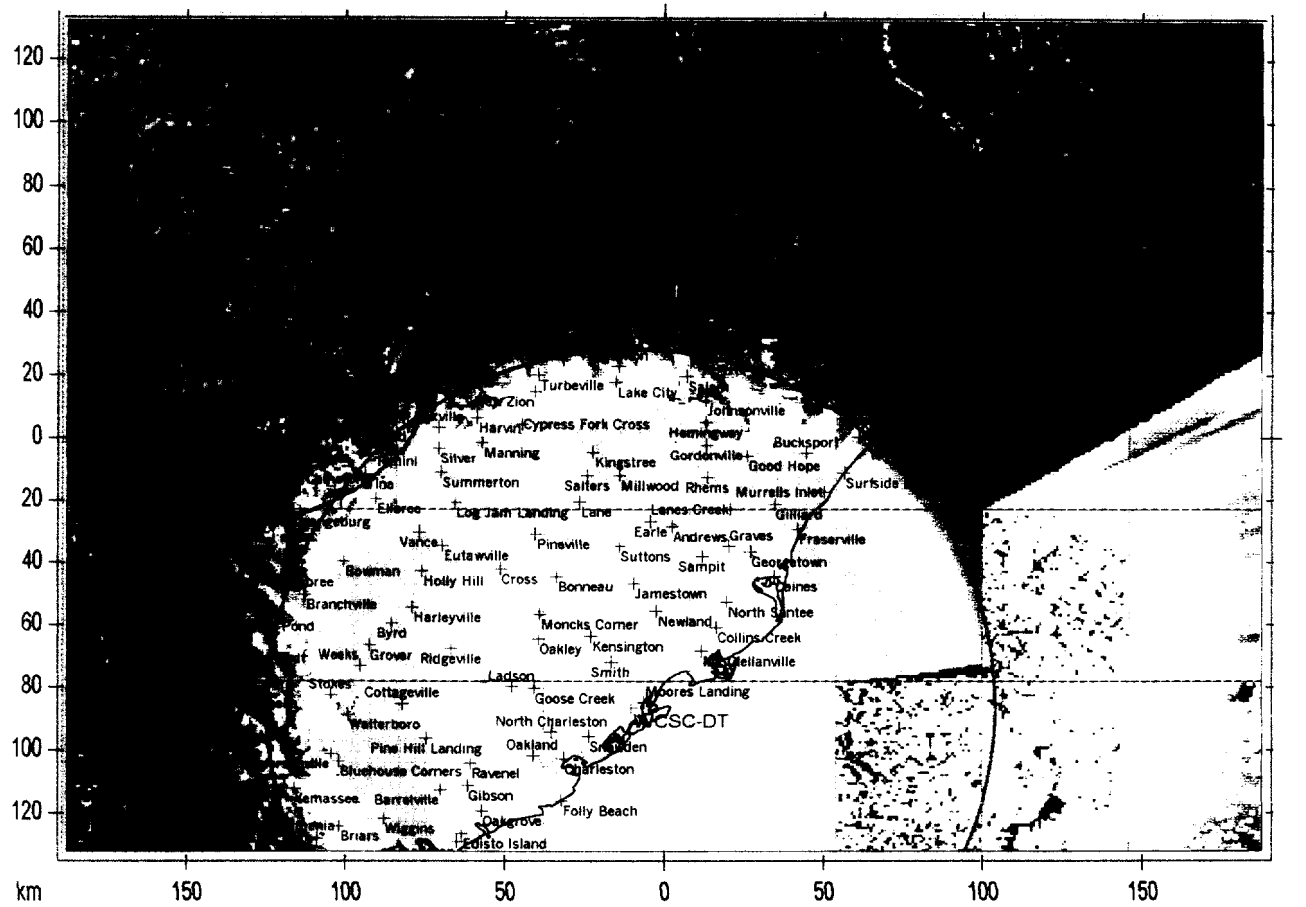
Population within Service Contours



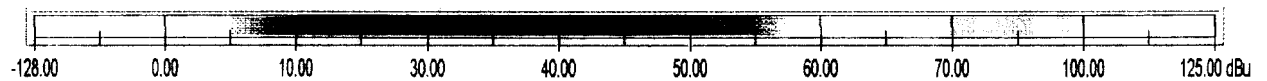
prepared by Wes, Inc. Broadcast Consultants



Longley-Rice Field Strength Calculation



prepared by Wes, Inc. Broadcast Consultants




State Borders
 City Borders
 Lat/Lon Grid

Wes, Inc.

DECLARATION

I, Pete E Myrl Warren, III, declare and state that I am a Certified Broadcast Engineer, by the National Association of Radio and Television Engineers, and my qualifications are a matter of record with the Federal Communications Commission, and that I am an engineer in the firm of Wes, Inc., and that the firm has been retained to prepare an engineering statement on behalf of Fant Broadcast Development LLC.

All facts contained herein are true to my knowledge except where stated to be on information or belief, and as to those facts, I believe them to be true. All Exhibits were prepared by me or under my supervision. I declare under penalty of perjury that the foregoing is true and correct.



Pete E Myrl Warren, III

Executed on the 20th day of July, 2001

CERTIFICATE OF SERVICE

I, Dean R. Brenner, do hereby certify that a true and correct copy of the foregoing "Petition for Extension of Time" was served by mail this 20th of July 2001, to:

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John M. Burgett
Elizabeth E. Goldin
Wiley, Rein & Fielding
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Clay C. Pendarvis, Chief
Television Branch
Video Services Division
Mass Media Bureau
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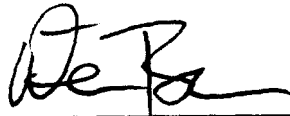
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A handwritten signature in black ink, appearing to read 'De R', positioned above a horizontal line.

Dean R. Brenner